

Exhibit 4:

Excerpts from Deposition of Christopher Vivona

**Christopher Vivona - June 28, 2018**

IN THE DISTRICT COURT  
FOR THE UNITED STATES OF AMERICA  
WESTERN DISTRICT OF TENNESSEE

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EDWARD ALAN YEARTA, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No.  
 ) 2:17-cv-2117 SHM-egb  
AMUSEMENTS OF AMERICA, )  
INC.; DELTA FAIR, )  
INC.; UNIVERSAL FAIRS, )  
LLC; and BELLE CITY )  
AMUSEMENTS, INC., )  
 )  
Defendants. )  
 )  
AMUSEMENTS OF AMERICA, )  
INC., )  
 )  
Crossclaim Plaintiff, )  
 )  
v. )  
 )  
BELLE CITY AMUSEMENTS, )  
INC., )  
 )  
Crossclaim Defendant.)

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VIDEOTAPED DEPOSITION

OF

CHRISTOPHER R. VIVONA

JUNE 28, 2018

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1 A. Amusements of America.

2 Q. And who owns Alpine Bob?

3 A. Prime Time Amusements.

4 Q. What about the Scrambler?

5 A. Prime Time.

6 Q. And the Moonraker?

7 A. Belle City.

8 Q. So, of the 66 rides that are using Belle  
9 City generator, only the Moonraker is owned by Belle  
10 City?

11 A. Correct.

12 Q. Does Amusements of America pay Belle City  
13 to use its generator?

14 A. No. We put fuel in it and it's just  
15 included when they book rides.

16 Q. Where is it included when you book rides?

17 A. It's understood. It's verbal.

18 Q. It's a verbal agreement?

19 A. Yeah.

20 Q. That Belle City will provide the generator  
21 to source and power one, two, three rides owned by  
22 Amusements of America?

23 A. Yes.

24 Q. Do you know if Prime Time pays Belle City  
25 to use its generator?

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1 A. They don't.

2 Q. So the arrangement that you are speaking  
3 of where Amusements of America uses Belle City's  
4 generator is strictly by a verbal agreement?

5 A. Yes.

6 Q. Who from Belle City would this verbal  
7 agreement have been made with?

8 A. Zach Panocek.

9 Q. What are the pink blocks?

10 A. The pink blocks are Amusements of America  
11 booked-in concessions.

12 Q. What's the peach colored shapes?

13 A. Peach colored?

14 Q. Ah, this color (indicating).

15 A. Oh, I'm sorry. It's a little different on  
16 mine. Mine is like a tannish. Yeah, those are all  
17 of Delta Fair's bookings.

18 Q. Do you see where it said TB?

19 A. Yes.

20 Q. What does that mean?

21 A. Ticket box.

22 Q. And so there are multiple ticket boxes  
23 sort of clustered together?

24 A. Yes.

25 Q. And what is HS?

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1 there. And one other show, the owner is Joe  
2 Frankowski.

3 Q. Do you have verbal agreements with any  
4 other ride operators to bring their generators?

5 A. Yes.

6 Q. Which ones?

7 A. PB&J.

8 Q. Is that the only one?

9 A. Yes.

10 Q. Why is it that you do not have a verbal  
11 agreement with Prime Time for Prime Time to bring a  
12 generator?

13 A. I only needed two.

14 Q. You only needed two for the 2016 Delta  
15 Fair?

16 A. Yes.

17 Q. The other generators that are listed, that  
18 are depicted or shown on this layout, who owns those  
19 generators?

20 A. Amusements of America.

21 Q. How many generators does Amusements of  
22 America own?

23 A. I believe we have five there, but we have  
24 others that aren't there.

25 Q. Are there ever situations where you don't

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1 ask ride operators to bring generators at all?

2 A. Yes.

3 Q. What are those situations?

4 A. Well, if they only have one -- it all  
5 depends on the amount of rides they bring. Both  
6 PB&J and Belle City brought multiple rides. So  
7 usually when you do that, in our industry, you ask  
8 them to bring a generator. If you're just bringing  
9 one ride, that's not required.

10 Q. Beside the Moonraker, what other ride was  
11 Belle City bringing to the 2016 -- or what other  
12 ride did Belle City bring to the 2016 Delta Fair?

13 A. Crazy Plane, the Berry's, the Free Fall, I  
14 think the Scooter, Zero Gravity, a Mini Himalaya,  
15 Peter and Paul, Mini Enterprise. That looks like  
16 it. They had another one scheduled to come but  
17 something happened to it. It was -- a broken part  
18 on it. That would be the Free Fall.

19 Q. That's not on the Memphis layout 2016?

20 A. Correct.

21 Q. Okay. Can you tell me which of those  
22 rides were connected to the Belle City generator?

23 A. The Moonraker.

24 Q. Is that the only Belle city-owned ride  
25 that was hooked up to the Belle City generator?

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1 Q. As far as compensation, that would be  
2 Dominic Jr.'s role?

3 A. Yes.

4 MR. MAST: Can we go off the record for a  
5 minute?

6 VIDEOGRAPHER: Going off the record. The  
7 time is 4:01.

8 (Off record)

9 VIDEOGRAPHER: Going back on the record.  
10 The time is 4:03.

11 BY MS. TULLIS:

12 Q. If you will flip with me to page 13 -- I'm  
13 sorry, not page 13 -- paragraph 14 on the third  
14 page.

15 A. Okay.

16 Q. Do you see paragraph 14 refers to  
17 subcontractor agreeing to keep and operate all rides  
18 and attractions in good and safe condition and to  
19 comply with requirements established by Amusements  
20 of America to promote safety and to permit  
21 Amusements of America to have free access to said  
22 rides and attractions at all times for the purpose  
23 of ascertaining compliance with the provisions of  
24 this contract? Do you see that?

25 A. Yes.

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1 Q. What -- are these -- what are those  
2 requirements referring to?

3 A. It's basically the condition of the ride  
4 that they bring in, that we approve of it.

5 Q. How do you approve of the ride coming in?

6 A. Well, it's visually, and make sure they  
7 are up-to-date in any kind of safety bulletins and  
8 inspection required by the manufacturer.

9 Q. Are there any requirements that Amusements  
10 of America sets -- or are there any requirements  
11 that Amusements of America has for Belle City that  
12 are written down anywhere?

13 A. No.

14 Q. You'd agree with me that the sentence I  
15 just read refers to rides and attractions?

16 A. Yes.

17 Q. And that sentence does not contain the  
18 word generator anywhere?

19 A. Correct.

20 Q. Do you see where it starts subcontractor's  
21 equipment must meet the standards set by Amusements  
22 of America for a clean and presentable appearance  
23 and should present photographs to attest to same?  
24 Do you see that?

25 A. Yes.



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1 Q. What are the standards set by Amusements  
2 of America in that context?

3 A. Well, it's -- basically, it's the general  
4 appearance of the ride when it's set up and  
5 operating. It's good paint. It's safe, passed all  
6 their inspections. The main thing is it's safe and  
7 it looks like a presentable ride.

8 Q. You'll agree with me that the sentence  
9 says clean and presentable appearance, right?

10 A. Right.

11 Q. Regarding Belle City's equipment, right?

12 A. Right.

13 Q. And you'll agree with me that it does not  
14 say safe appearance, the word safety or safe is not  
15 in that sentence; would you agree with me?

16 A. Okay. I agree.

17 Q. Are any standards that are set by  
18 Amusements of America with respect to Belle City's  
19 equipment as it -- as it is outlined in this  
20 sentence, are those written anywhere?

21 A. I don't know.

22 Q. Have you written standards out that  
23 Amusements of America sets forth for equipment from  
24 subcontractors?

25 A. Unless it's in the contract. I have not

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1 done it personally.

2 Q. And would you agree with me that the rides  
3 and attractions that are referenced in this  
4 paragraph refer to rides and attractions that are  
5 owned by Belle City?

6 A. Yes.

7 Q. Is this form the same form you use for  
8 other ride operators?

9 A. Yes.

10 Q. Have you ever asked or required any ride  
11 operators to bring a generator as a backup?

12 A. No.

13 Q. Did you ever talk to anyone from TOSHA?

14 A. Yes.

15 Q. Who did you talk to?

16 A. I don't remember the name.

17 Q. Was it a male or female?

18 A. Male.

19 Q. When did you talk to this male?

20 A. When they came out to the fairgrounds.

21 And I don't remember what day exactly. It was  
22 either a day or two after the incident.

23 Q. Was that the only time you talked to  
24 anyone from TOSHA?

25 A. Yes.